

ELECTION

In response to the Restriction Requirement, Applicants elect the invention of Group I (at least claims 1-16), and the species (a) Arginine (at least claims 1-16 are readable thereon).

REMARKS

Notwithstanding the election of the claims of Group I and species (a), in order to be responsive to the requirement for restriction, Applicant respectfully traverses the requirement.

Restriction is not proper in this instance as there is no undue burden to examiner each of Applicant's claims. Reference is made to M.P.E.P. 803 which indicates that restriction should not be required where there is not undue burden for the Examiner to examine each of Applicants' claims. In the current case, the Examiner has not pointed to any evidence of a serious search burden, such as the need to search multiple subclasses. The Restriction Requirement lacks even the mere statement that there would be a burden on the Examiner to examine all of the claims, much less the required serious burden. In other words, the restriction requirement fails to fulfill the requirements of 35 U.S.C. §§ 121 and 372, and 37 C.F.R. §803, and should be withdrawn.

In regard to the requirement for species election, the Examiner asserts that the species do not relate to a single general inventive concept under PCT Rules 13.1 and 13.2 because the species allegedly lack the same or corresponding special technical features

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in that each of the species (a) through (h) is a different chemical compound with unique structural and chemical properties. However, the Examiner provides no particular evidence supporting the assertion that each of the species have unique structural and chemical properties in regard to the particular invention claimed. To the contrary, the Applicant's specification, for example at pages 5-6, discloses that each of the claimed chemical species share the property of being useful as stabilizing agents for HGF in lyophilized preparations.

In view of the foregoing, it is respectfully requested that the Examiner seriously reconsider the requirement for restriction, and withdraw the same so as to give an examination on the merits on all of the claims and species pending in this application. In any event, the claims should be rejoined upon allowance of the elected claims. Also, consideration of all the other non-elected species should proceed upon the allowance of an asserted generic claim.

CONCLUSION

Therefore, the Examiner is respectfully requested to reconsider and withdraw the restriction requirement. Furthermore, even if the restriction requirement is initially maintained, if the elected claims are found to be allowable the non-elected method and/or species claims should be rejoined.

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Should the Examiner have any questions, please contact the undersigned at the telephone number provided below.

Respectfully submitted,
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A handwritten signature in black ink, appearing to read "Bruce H. Bernstein".

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